

## WATER COUNCIL MEETING

Dept. of Environmental Services  
29 Hazen Dr., Concord, N.H.

February 11, 2004  
9:00 a.m.

**Members present:** Councilors Bridges, Bradley, Butler, Densberger, Dupee, DiMarzio, Lyons, Phillips, and Varotsis

**Members absent:** Councilors Cowan, Funk, Ingham, and Patenaude; Councilor Flynn or his designee, David Barrett; and Councilor Manoogian or her designee, Ben Frost

**Vacancies:** Appointee representing agricultural interests

Chairman Bridges opened the meeting at approximately 9:00 a.m.

### 1. Approval of Minutes of January 14, 2004 Meeting

***A motion was made by Councilor Varotsis to accept the minutes of the January 14, 2004 meeting as presented. The motion was seconded by Councilor Butler and it was unanimously voted.***

### 2. Approval of State Aid Grants

Stephen Snell, Wastewater Engineering Bureau, presented a list of municipal projects to receive state aid, as set forth in John Bush's memorandum of February 2, 2004 and recommended Council approval of processing for such payments.

***A motion was made by Councilor Bradley to approve and recommend favorable action by the Governor and Executive Council by adoption of the following resolution in its entirety. Councilor Varotsis seconded the motion and the vote was unanimous.***

WHEREAS, The following municipalities have applied to the Department of Environmental Services, under the provisions of RSA 486, for grants in the amounts listed to aid in the defraying of the costs resulting from the construction of sewage disposal facilities, as defined in said Chapter:

<u>MUNICIPALITY</u>	<u>PROJ. NO.</u>	<u>PROJECT DESCRIPTION</u>	<u>AMOUNT</u>
Pittsfield	C-663	Wastewater Treatment Fac. Impr., Phase I	172,915
Manchester	C-664	Varney Street Sewer Separation	476,624
Exeter	C-665	Court Street Infiltration/Inflow Rehabilitation, Webster Street Pump Station & SCADA	453,776
Dover	C-666	Design of Ultraviolet Disinfection System	10,014

WHEREAS, The Department of Environmental Services has examined said applications as to the eligibility of the construction costs for State contributions; and

WHEREAS, The Water Council finds that said projects are intended to control or reduce pollution in the surface waters of the State, as defined in RSA 485-A;

NOW THEREFORE, The Water Council finds that all of the provisions of RSA 486 have been met by said applicants, and respectfully recommends that the Governor and Executive Council approve said grants and authorize payment thereof through the Department of Environmental Services, as provided for in said Chapter.

#### **4. Appeals Update**

Michael Sclafani distributed an Appeals Status Report and reviewed the report with the Council.

- **Docket No. 03-09 WC - Appeal of Town of Chester Conservation Com.**  
On January 21, 2004 the appellant withdrew its appeal.
- **Docket No. 03-10 WC - Appeal of Conservation Law Foundation**  
A stay remains in effect.
- **Docket No. 03-12 WC - Appeal of USA Springs Inc.**  
On January 16, 2004 the appellant withdrew its appeal.
- **Docket No. 03-14 WC - Appeal of Gerald A. Bell**  
A stay remains in effect.
- **Docket No. 03-15 WC - Appeal of Lamprey Suburban, Inc.**  
Mr. Sclafani was advised by Attorney Patterson who represents DES that a written agreement between the parties has been signed and the appellants will be filing a withdrawal of its appeal by February 14, 2004.
- **Docket No. 03-19 WC - Appeal of Pennichuck Brook Watershed Council**  
At the January 14, 2004 meeting, the Council voted to table Appellant's Motion for Rehearing to give the Councilors an opportunity to review the filings.  
  
*Councilor Butler made a motion to deny the appellants Motion for Rehearing. Councilor Bradley seconded the motion and it was unanimously voted.*
- **Docket No. 03-20 WC - Appeal of Governor's Island Club Inc.**  
The appellants have until February 13, 2004 to file a motion for reconsideration of the Council's January 14, 2004 vote to dismiss the appeal. No filing as been received as of this date.
- **Docket No. 04-01 WC - Appeal of Town of Nottingham**
- **Docket No. 04-02 WC - Appeal of Town of Barrington**  
Docket Nos. 04-01 and 04-02 were combined for a pre-hearing conference on January 27, 2004. As a result of the pre-hearing conference, the parties have entered into discussions and both of these appeals are likely to be withdrawn before the next Council meeting.

#### **3. Water Quality Standards - Evaluation of Sediment Quality**

Paul Currier, Administrator of the Watershed Management Bureau, discussed DES's policy for application of water quality standards to freshwater, estuarine and marine sediments. The policy describes procedures for evaluating chemical and biological

data relative to ambient sediments at the bottom of a water body in order to assess risk to ecological resources. The policy has been used to determine whether sediment meets water quality standards to support aquatic life when there has been a release of hazardous materials, to make decisions on dam removals, and to assess estuaries.

The Business and Industry Association questioned whether DES has jurisdiction over sediment quality under the Clean Water Act and state statutes and DES has requested an opinion from the Attorney General's Office.

#### **Instream Flow Protection Pilot Program**

Paul Currier distributed copies of an Executive Summary of the Instream Flow Protection Pilot Program. The Legislature requested DES to do pilot programs on the Lamprey and Souhegan Rivers and to adopt rules that would conform to the legislation which was enacted. The legislature appropriated money for the Souhegan but it did not appropriate money for the Lamprey. However, Senator Judd Gregg's office was able to get \$600,000 for the Lamprey River in the congressional budget.

The process provides for two advisory committees for each river - a technical review committee and a water management planning advisory committee. Studies will be conducted to establish protected instream flows and to create water management plans so water users and dam owners can conduct their operations to maintain the protected instream flow. The technical review committee for the Souhegan River has met and nominations have gone to Governor & Council for the Water Management Planning Advisory Committee for the Souhegan. Mr. Currier expects both pilot programs to be completed within the timeframe set by the legislature of December 1, 2008.

#### **5. Proposed Septage Management Rules Changes**

Richard Flanders, DES Wastewater Engineering Bureau, discussed proposed rule changes to Env-Ws 1600. Mr. Flanders stated that he expects the final draft of the rules to be complete by the end of February and then will go to public hearing.

- The rules are designed to promote innovative and alternative treatment facilities and include a section on research and development which would allow pilot facilities to obtain permits.
- The rules include a mechanism to regulate consolidation and transfer of septage which differentiates between holding and storage facilities by capacity rather than length of time septage is stored.
- The rules provide for setbacks from the footprint of the operational facility rather than property lines, and the setbacks to the nearest residence have been increased from 500 feet to 600 feet.
- The rules provide for a permit to be issued to the business owner or "transporter" to distinguish from the "septage hauler."

In response to Councilor's Varotsis' inquiry relative to the estuary wastewater project, Harry Stewart advised the Council that the legislature appropriated \$1 million to study the concept of connecting the outfalls from up to 30 communities in the coastal area into one common outfall which would discharge to the ocean. The potential cost savings would come from communities not having to provide greater than

secondary treatment (for example, phosphorus removal at Rochester) for their wastewater in order to continue to discharge at their present locations. Environmentally, there is the potential for improvements in water quality for various rivers where the discharges now occur.

**6. Legislation**

Russell A. Nylander, P.E., presented a report on legislation being tracked by the Water Division. All bills have received an initial hearing in their respective bodies. Thus far, a few bills have been voted inexpedient to legislate including the imposition of bottled water fees (HB 1356) and the constitutional amendment that would have enabled taxation of gravel and water resources in addition to timber (CACR 20).

**7. Other**

Milfoil: Harry Stewart advised the Council that DES received \$1 million for research on milfoil eradication through Senator Judd Gregg's Office. DES will be working with the universities and other interested parties to establish what type of research will be done and who will do it. DES also has a request for proposal for outreach efforts, primarily the Lake Host program, which will be funded by a portion of the boat registration fees.

**8. Next Meeting**

The next meeting will be March 10, 2004.

**9. Adjournment**

Councilor Varotsis made a motion to adjourn. Councilor Butler seconded the motion and it was unanimously voted.

The meeting adjourned at approximately 10:30.